

## REMARKS

These remarks are submitted in response to the Final Office Action of September 25, 2007 (Office Action). As a result of this Amendment, claims 1, 13, 20, 21-24, 25 and 26 have been amended. Claims 1-26 remain in the Application. No new matter has been added. Claims 1, 13, 16, 20, 25 and 26 are the independent claims.

In the Final Office Action Claims 1-5, 8-12, 20-22, and 26 were rejected under U.S.C. § 103(a) as being unpatentable by U.S. Patent Application Publication No. 2007/0118833 by Hilt (hereinafter "Hilt") in view of U.S. Patent Application No. 2004/0049389 to Marko et al (hereinafter "Marko") and further in view of U.S. Patent No. 6,553,077 to Rindsberg (hereinafter "Rindsberg"). Claim 6 was rejected under U.S.C. § 103(b) as being unpatentable over Hilt, Marko and Rindsberg and further in view of U.S. Patent No. 7194687 to Sezan (hereinafter "Sezan"), and claim 7 was rejected under U.S.C. § 103(b) as being unpatentable over Hilt, Marko and Rindsberg and further in view of U.S. Patent Application Publication No. 2004/0196179 to Turnbull.

Further, claims 13-15 were rejected under U.S.C. § 103(b) as being unpatentable over Hilt in view of Marko, claims 16-18, 23 and 25 were rejected under U.S.C. § 103(b) as being unpatentable over Marko in view of Rindsberg, and claims 17 and 14 were rejected under U.S.C. § 103(b) as being unpatentable over Marko in view of Rindsberg and further in view of Sezan.

Hilt is directed towards a scheme that enables an XM Radio and a browser associated with the radio to avoid a firewall in order to communicate with a remote server. Hilt does not teach or suggest a computer coupled to a display having a GUI where data associated with a

plurality of channels including channel numbers, artist names, song titles, channel names are simultaneous updated and displayed on the GUI of the display of the computer. Hilt does not discuss a GUI that updates and presents this particular data.

Marko is asserted as being disqualified as prior art against the present application. It would be prior art only under 35 U.S.C. Section 102(c), as it as filed before, but published after the filing date of the present application. Moreover, the assignment records of the U.S. Patent Office show that both it and the present application were assigned as of their filing dates to the same entity, XM Satellite Radio, Inc, and after due inquiry it was discovered that the employment agreement for each inventor required that all such inventions were, as of the date of making of the invention, assigned to their employer.

Applicants have requested a suspension of prosecution for three months to provide the appropriate declaration(s) to establish these facts and thus remove the Marko reference as prior art. Even so, Applicants note that although Marko discusses the existence of some of the claimed associated data being received by an XM radio or Satellite Digital Audio Radio, Marko fails to teach or suggest that such data is coupled to a computer having a display and a GUI where the GUI simultaneously updates and displays the channels and the associated data. Instead, Marko discusses a device in paragraph 26 where "a first portion of real time digital audio channels contains associated data intended for text display on a receiving device and optionally at least a second portion of the plurality of digital audio channels contains associated data intended for real-time play back by a text-to-speech converter in the receiving device." This is not teaching the feature of multiple channels being updated and simultaneously displayed as claimed.

Rindsberg is generally directed to a "favorites" feature for selection of music in a

satellite radio system for example. Although Rindsberg discusses a channel reference table, this table is not updated and displayed on a GUI as claimed. The channel reference table in column 3, line 45 or in column 4 lines 49-50 is not a GUI. FIG. 6 in Rindsberg illustrates the Channel Reference Table. Again, the Channel Reference Table is not a GUI that is displayed.

Even were the Examiner to rely on the broad – and undefined – statements found at 4:30-32 of Rindsberg, namely that information and audio can be routed to a user, “either visually through a display<sup>518</sup> or audibly through an audio output device <sup>514</sup> such as a speaker”, one could not read this vague language as teaching or even suggesting the claimed invention. First there is parity between what is visually and audibly presented to a user in Rindsberg. There is no way to present in audio format the information stored and shown in Fig. 6, which is precisely why it is not displayed. Second, at 5:20-27, this is blatantly contradicted by the very disclosure of Rindsberg itself. Here is described exactly what is displayed or audibly presented to a user. An alert, with a content type and ideally a channel number or numbers. But clearly not a complete set of channels updated and displayed on a GUI. The Rindsberg system of alters are not a complete updated and displayed channel listing such as is shown in Fig. 6 of the present Specification.

Thus, even if one were to combine Hilt, Marko, and Rindsberg, the combination would still fail to teach or obviate the claimed embodiments as recited in Claims 1-5, 8, 12, 20-22, and 26 since the combination would fail to include a single audio digital receiver coupled to a computer having a GUI where the GUI is updated and displayed with certain recited data. The data updated and displayed is not associated with a single channel, but rather associated with a plurality of channels and includes a plurality of channel numbers, and channel names, and at least one of a plurality of artist names, song names and use percentages that are updated and

displayed simultaneously on the GUI. Being able to update and display the data simultaneously (or in rapid recurring succession as recited in claims 20 and 26) for all such channels is not a trivial improvement over the cited art, but a significant and non-obvious improvement.

For similar reasons the combinations of Hilt and Marko, or Marko and Rindsberg similarly fail, and the rejections of claims 13-15, and 16, 18, 23 and 25 fail as well.

Claims 6, 17 and 24 stand rejected under U.S.C. § 103(b) as being unpatentable over Hilt, Marko and Rindsberg and further in view of Sezan. The Examiner also discusses Ellis, a previously cited reference, but given the Examiner's clarifications of this rejection in his Examiner's Answer in the Appeal, it is clear that this is an error.

With respect to claims 6, 17 and 24, none of the references individually or in combination teach or even suggest, mention or contemplate a GUI that enables the simultaneous viewing of channels numbers, artist names, song titles, channel names, categories and use percentage of the channels among the plurality of channels. Sezan discusses the usage history, but only in terms of percentage of a video program played by a user. Sezan does not keep track of particular channels among a plurality of channels that a user is listening to. Sezan does not cure the defects of the Hilt, Marko and Rindsberg references against these claims.

Claim 7 was rejected under U.S.C. § 103(a) as being unpatentable by Hilt, Marko in view Rindsberg and further in view of Turnbull. As noted above with respect to claims 6, 17 and 24, none of the references alone or in combination teach or suggest, mention, or contemplate a system that has a GUI that displays information associated with a plurality of channels that comes from a single receiver that extracts data associated from each channel from a single data stream and that simultaneously updates and displays the particular associated data

affiliated with a digital audio radio such as the signal strength information as recited in claims 7 and 19. Claims 7 and 19 also refer to both signal strength from a satellite and terrestrial source and displaying same.

The remaining dependent claims are also urged as patentable for at least the same reasons that their base independent claims are.

Applicants will file a Supplemental Amendment, as noted, in due course. Prosecution is requested to be suspended for three months.

No other fees are believed due in connection herewith. Please charge any fee deficiency or credit any overpayment to the undersigned attorneys' Deposit Account No. 50-0540.

Dated: **January 9, 2011.**

Respectfully submitted,

/Aaron S. Haleva/  
Aaron S. Haleva  
Reg. No. 44,733  
Attorney for Applicants  
KRAMER LEVIN NAFTALIS & FRANKEL LLP  
1177 Avenue of the Americas  
New York, New York 10036  
(212) 715-9100